

Town of Lincoln

Zoning Board of Review

100 Old River Road, Lincoln, RI

Minutes of June 7, 2011 Meeting

Present: Jina Karampetsos (Chair), John Bart (Vice Chair), Mark Enander, Barry Nickerson, David DeAngelis, Lori Lyle, John Barr, Attorney Anthony DeSisto (Town Solicitor)

Minutes

Motion made by Member Enander to approve Minutes from the May 2011 meeting. Motion seconded by Member Bart. Motion carried by all present.

Correspondence: None.

Miscellaneous:

Chair Karampetsos announced she would be resigning from the Board effective June 30, 2011. Election of new Chair will be voted upon at the August meeting.

Applications:

Michael Chen, 127 Massachusetts Avenue, Providence, RI/The Lucky Chen's Corp 2, 127 Massachusetts Avenue, Providence, RI –

Application for Special Use Permit for the expansion of 2nd floor of existing non-conforming restaurant on property located at 614 Smithfield Avenue, Lincoln, RI.

AP 6, Lot 16 Zoned: VCMU

Michael Chen, 127 Massachusetts Avenue, Providence, RI/The Lucky Chen's Corp 2, 127 Massachusetts Avenue, Providence, RI – Application for Dimensional Variance for parking to vary from street ordinance, side and rear setbacks due to unique position and dimensions of lots and loading for property located at 614 Smithfield Avenue, Lincoln, RI.

AP 6, Lot 16 Zoned: VCMU

Represented by: Robert Oster, Esquire

This application was continued from the May 2011 agenda. Former owner (Frank's Family Restaurant) operated a family restaurant at this location for 40+ years. Applicant recently purchased property and also owns Dragon Villa across the street. Site will remain family restaurant with full liquor license and applicant wants to add a second floor. Second floor will consist of small lounge area with no band entertainment.

Attorney Oster submitted new plans for the Board's review. Rear entrance has been removed and access will now be on Hopkins Street. Access to second floor will be through first floor restaurant area with additional parking at rear of property. Exterior of property

will be vinyl sided or stucco. Kitchen will close at midnight; second floor will close at midnight; and first floor restaurant will close at 10:00 pm

Chair asked about parking in front on Town owned property and inquired if applicant had addressed this issue with the Town. Chair also stated two additional parking spaces may not be sufficient. Attorney Oster replied applicant will address this issue with the Town. Employees will park at the Dragon Villa across the street. Chair asked about the fence at the rear of the property. Attorney Oster replied fence will be repaired and light storage facility on Hopkins Street will be enclosed.

Chair read into the record Technical Review Committee/Planning Board recommendations for both applications:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval with Conditions of the Special Use Permit for the expansion of a 2nd floor restaurant. A restaurant currently exists on the first floor. The Planning Board feels that the special use permit will not alter the general character of the surrounding area and will not impair the intent and purpose of the zoning ordinance and the Comprehensive Plan. However, the Planning Board feels that exterior site improvements are needed to create a safer flow of vehicular traffic around the property. The Planning Board recommends that the proposed parking spaces be striped. Striping the spaces will define

the parking area. This can be a condition of approval.

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval with Conditions of a Dimensional Variances for parking to vary from the street ordinance, side and rear setbacks due to unique position and dimensions of the existing lot and a variance from the loading ordinance for property. A restaurant currently exists on the first floor of this building. The applicant proposes to expand the restaurant use to the 2nd floor. The Planning Board feels that the expanded restaurant use will not alter the general character or function of the property or surrounding area. However, the Planning Board feels that exterior site improvements are needed to create a safer flow of vehicular traffic around the property. The Planning Board recommends that the proposed parking spaces be striped. Striping the spaces will define the parking area. This can be a condition of approval. The Planning Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Chair asked if there was anyone present in opposition of the applications.

Opposed:

Robert Johnston, 24 Grafton Street, Lincoln, RI

Concerned about patrons parking on side street. Overflow is a problem and worried about property values declining. Noise may also be an issue at closing.

Chair stated she understands concerns of the neighbors. The rear entrance has been eliminated and applicant has met parking code requirements. Access to the second floor will be through the first floor restaurant. Balcony will be used as a fire exit and signs will be posted. The property is being characterized as a bar but with a restaurant. First use is a restaurant. She agrees the area is saturated with bars.

Member Barr is familiar with the neighborhood and has traveled by the property at 11:30pm. Brooksies parking lot is full with overrun of cars parking on the applicant's property. Does not feel it is a good fit for the area. He felt there are other potential uses for the building and the burden of parking has not been met.

Member Bart stated the Dragon Villa, also owned by the applicant, is not a bar business and felt the applicant will run this site in the same manner.

Motion made by Member Enander to grant the Special Use application with condition that all parking issues be brought up to code. He further stated:

- That the Special Use is specifically authorized under this Ordinance.**

It is a permitted use.

- That the Special Use meets all the criteria set forth in this Ordinance authorizing such special use. All Town parking requirements need to be met.**
- That the granting of the Special Use will not alter the general character of the surrounding area.**
- That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan. Exterior of building will be vinyl siding or stucco and the fence/retaining wall issue will be resolved.**

Motion seconded by Member Bart. Motion carried with a 4-1 vote with Members Karampetsos, Enander, Bart, Nickerson voting aye and Member Barr voting nay.

Motion made by Member Enander to grant the Dimensional Variance application seeking 8.5 foot northeast corner; 6.3 foot northwest front corner; and 1.1 foot north side relief. He further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- The granting of this variance will not alter the general character of**

the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

Motion seconded by Member Nickerson. Motion carried with a 4-1 vote with Members Karampetsos, Enander, Bart, Nickerson voting aye and Member Barr voting nay.

Reno R. Sabatini/John D. Larence, 1583 Old Louisquisset Pike, Lincoln, RI – Application for Dimensional Variance seeking side yard relief for the construction of an addition

AP 42, Lot 45 Zoned: RS 20

Chair read into the record standards that need to be met for a Dimensional Variance.

Applicant wants to construct a second story addition to house a master bedroom and bath. Existing garage will be converted to living space and new garage will be constructed. Bathroom and bedroom on second floor pre-existing non-conforming. Vinyl siding and windows of addition will match existing house. No construction off the rear of the house.

Chair read into the record Technical Review Committee/Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Technical Review Committee recommends Approval of this application for Dimensional Variances of the side yard setbacks for the construction of an addition. The proposed dimensional variances will clear up a pre-existing nonconformance of this parcel of land. Currently, the existing structure does not meet the side yard setbacks on each side of the house and represents a pre-existing non-conforming structure. This variance will also allow the applicant to expand the footprint of the garage within the new building setbacks. The proposed addition will be a second story to the house which will be constructed on the new footprint. The Technical Review Committee finds that the applicant presents a realistic site layout that meets the intent of the zoning and is the least relief needed. The Committee feels that granting these dimensional variances will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

No opposition present.

Motion made by Chair Karampetsos to approve the application seeking 4.95 foot northeast side corner; 5.85 northwest side corner; 9.4 foot southeast corner; and 8.57 southwest side corner relief. She further stated:

- The hardship from which the applicant seeks relief is due to the**

unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant. Applicant simply wants to expand existing home.

- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain. Applicant needs to clear up existing non-conforming issues.
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan. There are other two story homes in the area.
- The relief requested is the least relief necessary.
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property

Motion seconded by Member Bart. Motion carried with a 5-0 vote.

A.J. Holmes, LLC, P.O. Box 291, Cumberland, Rhode Island – Application for Dimensional Variance seeking side yard relief for the construction of a single family home on property located at 490 Great Road, Lincoln, RI.

AP 22, Lot 165 Zoned: RL 9

Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI

Chair read into the record standards that need to be met for a Dimensional Variance.

Applicant purchased the property to construct a single family home which is under construction. Current south side foundation is incorrect with 1.3 feet encroaching and applicant is requesting a minor deviation. It is a valid lot of record.

Witness:

Gerry Sahogian

Submitted his resume into the record as Exhibit #1. He has testified before other Board in the State as an expert. Motion made by Member Barr to accept Mr. Sahogian as an expert witness. Motion seconded by Member Enander. Motion carried.

Witness visited the site in question. Applicant is constructing a 1,400 sq.ft. colonial house with a one car garage. There are other similar homes in the area. Lot is not perfect angling on the south side. Dimensional relief is needed to correct a third party error. What applicant is asking for is least relief required.

Attorney Shekarchi stated the subcontractor did not properly measure the side line resulting in the requested relief. Applicant became aware of the problem when they applied for a Certificate of Occupancy.

Chair read into the record Technical Review Committee/Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted as-built plans and zoning application. The Technical Review Committee recommends Approval of this application for Dimensional Variances of the side yard setbacks for the construction of a new house. It appears that the new house was built slightly over the side yard setbacks. This error was discovered when the applicant came in for a certificate of occupancy. The proposed dimensional variances will clear up this nonconformance of the land. The Technical Review Committee finds that the applicant presents a realistic site layout that meets the intent of the zoning and is the least relief needed. The Committee feels that granting these dimensional variances will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Chair asked if there was any opposition present.

Opposed:

Bruce McCabe (abutter)

If the foundation is in the wrong place it is applicant's fault. There should be other ways to fix the problem without asking for dimensional relief.

Motion made by Chair Karampetsos to approve the application

seeking 1.3 foot southwest side relief. She further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant. Applicant simply wants to expand existing home.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain. Applicant needs to clear up existing non-conforming issues.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan. There are other two story homes in the area.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

Motion seconded by Member Nickerson. Motion carried with a 5-0 vote.

Gordon Ondis, 11 Whalen Drive, Lincoln, RI – Application for Dimensional Variance seeking front and rear yard relief for the construction of an addition on property located at 31 Boulevard Avenue, Lincoln, RI.

AP 10, Lot 308 Zoned: RG 7

**Represented by: John Shekarchi, Esquire, 132 Old River Road,
Lincoln, RI**

**Chair read into the record standards that need to be met for a
Dimensional Variance.**

Witness:

Gerry Sahogian

**Motion made by Member Enander to accept Mr. Sahogian as an
expert witness. Motion seconded by Member Nickerson. Motion
carried.**

**Lot is pre-existing and non-conforming. Construction of the addition
will not alter the general area nor hinder property values of other
homes. What applicant is asking is the least relief necessary. House
is currently vacant.**

**Chair read into the record Technical Review Committee/Planning
Board recommendation:**

**Members of the Technical Review Committee visited the site and
reviewed the submitted plans and application. The Technical Review
Committee recommends Approval of this application for Dimensional
Variances of the front and rear yard setbacks for the construction of
an addition. The proposed dimensional variances will clear up a
pre-existing nonconformance of this parcel of land. Approval of this**

application will allow the applicant to expand the footprint of the house within the existing building setbacks. The Technical Review Committee finds that the applicant presents a realistic site layout that meets the intent of the zoning and is the least relief needed. The Committee feels that granting these dimensional variances will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Motion made by Member Enander to approve the application seeking 5.91 foot west rear corner, 6.05 foot east rear corner; 7.38 foot chimney; and 2.19 shed rear property line relief. She further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant. Applicant simply wants to expand existing home.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain. Applicant needs to clear up existing non-conforming issues.**
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan. There are other two story homes in the area.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience, meaning**

there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property

Motion seconded by Member Bart. Motion carried with a 5-0 vote.

Motion made by Member Bart to adjourn the meeting. Motion seconded by Member Enander. Motion carried by all present.

**Respectfully submitted,
Ghislaine D. Therien
Zoning Secretary**